



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 20, 2009

Vice President, Operations
Entergy Nuclear Operations, Inc.
James A. FitzPatrick Nuclear Power Plant
P.O. Box 110
Lycoming, NY 10393

SUBJECT: JAMES A. FITZPATRICK NUCLEAR POWER PLANT - REQUEST FOR
INFORMATION REQUIRED FOR ACCEPTANCE REVIEW RE: REQUEST FOR
EXEMPTION (TAC NO. ME0727)

Dear Sir or Madam:

By letter dated February 18, 2009, Entergy Operations, Inc. (Licensee) submitted an Exemption request for James A. FitzPatrick Nuclear Power Plant (JAF). The licensee requested an exemption from the requirements of 10 CFR 50, Appendix R, Section III.G.2 to the extent that one train of systems necessary to achieve and maintain hot shutdown is not maintained free of fire damage for a fire occurring in the reactor Building (Fire Area 10). The purpose of this letter is to provide the results of the U.S. Nuclear Regulatory Commission (NRC or the Commission) staff's acceptance review of this exemption request. The acceptance review was performed to determine if there is sufficient technical information in scope and depth to allow the NRC staff to complete its detailed technical review. The acceptance review is also intended to identify whether the application has any readily apparent information insufficiencies in its characterization of the regulatory requirements or the licensing basis of the plant.

Section 50.12 of Title 10 of the *Code of Federal Regulations* (10 CFR) states, in part, that the Commission may grant exemptions which are authorized by law, will not present an undue risk to public health and safety, is consistent with common defense and security, and special circumstances are present. 10 CFR 50.12(a)(2) provides the types of special circumstances that would allow the Commission to consider granting an exemption. An application for an exemption should include the regulatory and technical basis that demonstrates that the above requirements are met.

The NRC staff has reviewed your application and concluded that the information delineated in the enclosure to this letter is necessary to enable the staff to make an independent assessment regarding the acceptability of the proposed exemption request in terms of regulatory requirements and the protection of public health and safety and the environment.

In order to make the application complete, the NRC staff requests that the licensee supplement the application to address the information requested in the enclosure by March 31, 2009. This will enable the NRC staff to begin its detailed technical review. If the information responsive to the NRC staff's request is not received by the above date, the application will not be accepted for review pursuant to 10 CFR 2.101, and the NRC will cease its review activities associated with the application. If the application is subsequently accepted for review, you will be advised of any further information needed to support the staff's detailed technical review by separate correspondence.

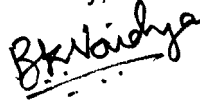
V. P. Operations

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The information requested and associated time frame in this letter were discussed with Eugene Dorman of your staff on March 17, 2009.

Please contact me at (301) 415-3308 if you have any questions on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Vaidya", with a horizontal line drawn underneath the name.

Bhalchandra K. Vaidya, Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-333

Enclosure:
As stated

cc w/encl: Distribution via Listserv



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

REQUEST FOR ADDITIONAL INFORMATION
REGARDING REQUEST FOR EXEMPTION FROM THE REQUIREMENTS OF
APPENDIX R, SECTION III.G.2
ENTERGY NUCLEAR OPERATIONS, INC.
JAMES A. FITZPATRICK NUCLEAR POWER PLANT
DOCKET NO. 50-333

The justifications and the missing information that is needed are described below:

1) Lack of justification for why the exemption meets the special circumstances.
The exemption does not include this regulatory justification. Below is a question that, if answered, we believe would solicit an adequate answer:

Please provide a summary including relevant factors that describe the special circumstances that are present. Additional information is required for a regulatory evaluation of the licensee's justification for special circumstances. For example, if the special circumstances are that the protection in accordance with III.G.2 are not required to meet the underlying purpose of the rule, the technical explanation and/or justification for how the proposed methods will result in an equivalent level of protection to what the request is asking for an exemption from (specifically 10 CFR Part 50, Appendix R, Section III.G.2). Note that it is the NRC staff's position that manual actions alone, regardless of their feasibility and reliability, do not meet the underlying purpose of the rule without specific consideration of the scenario's defense-in-depth elements.

2) Lack of description of the reliability of the manual actions.

The NRC review guide for operator manual actions is NUREG-1852, Demonstrating the Feasibility and Reliability of Operator Manual Actions in Response to Fire. The exemption request does not provide a technical explanation of the reliability of the manual action, either using a NUREG-1852 method, such as time margin, or any other rigorous treatment of reliability for the NRC staff to review.

3) Lack of description of fires that could cause the manual action to be relied upon.

The submittal lacks a discussion of the fire ignition sources, combustibles, and the relationship between the possible fires and the equipment that may be subject to damage requiring the performance of the manual action.

ENCLOSURE

V. P. Operations

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The information requested and associated time frame in this letter were discussed with Eugene Dorman of your staff on March 17, 2009.

Please contact me at (301) 415-3308 if you have any questions on this issue.

Sincerely,

/ra/

Bhalchandra K. Vaidya, Project Manager
Plant Licensing Branch I-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-333

Enclosure:
As stated

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